

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN A. MARTIN,

Plaintiff,

No. 2:03-cv-0466 GEB JFM (PC)

vs.

CHERYL K. PLILER, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On September 19, 2008, judgment was entered for defendant following a jury verdict. On October 8, 2008, plaintiff filed a notice of appeal. Plaintiff has included a request for appointment of counsel in his notice of appeal.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, this court does not find the required exceptional circumstances. Plaintiff's

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1 request for the appointment of counsel will therefore be denied without prejudice to its renewal,  
2 as appropriate, in the United States Court of Appeals for the Ninth Circuit.

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. Plaintiff's October 8, 2008 request for the appointment of counsel is denied  
5 without prejudice; and

6 2. The Clerk of the Court is directed to serve a copy of this order on the United  
7 States Court of Appeals for the Ninth Circuit..

8 DATED: November 5, 2008.

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11 UNITED STATES MAGISTRATE JUDGE

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